

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN - 8 1998

In the Matter of

Calling Party Pays Service Option
in the Commercial Mobile Radio Services

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WT Docket No. 97-207

REPLY COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

VANGUARD CELLULAR SYSTEMS, INC.

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SUMMARY

The Commission should adopt a notice of proposed rulemaking in this proceeding. CPP is a new and distinct wireless service that is plainly within the Commission's jurisdiction. Like toll-free service, collect calling, and other services that change the way charges are assessed, CPP is a wireless service that changes the party responsible for paying for a call. Because it encourages wireless customers to distribute their numbers more freely and receive more inbound calls, CPP is more than a mere billing arrangement.

CPP is subject to the Commission's jurisdiction. Under Section 332, the Commission has broad power to regulate CMRS. This regulatory authority over CMRS was established in the 1993 Budget Act, which revised Section 332 and amended Section 2(b) of the Communications Act. Indeed, Congress' express purpose was to create a uniform federal framework for the regulation of CMRS, thereby eliminating the states' substantive jurisdiction over formerly intrastate wireless telecommunications services. The Eighth Circuit has confirmed Commission jurisdiction over CMRS services.

The Commission also can adopt billing and collection rules pursuant to its Title I jurisdiction over billing and collection arrangements and its power under Section 251(c) to treat billing and collection as an unbundled element. Because many CMRS providers require LEC billing and collection for the provision of CPP services, the Commission can and should act to implement a national billing and collection regime to ensure that CMRS providers are not denied the ability offer CPP.

Limited Commission rules for billing and collection also are necessary to prevent a handful of the largest CMRS providers from gaining an undue advantage in offering CPP

through their access to the billing and collection arrangements established by their parent corporations. Indeed, the Commission must ensure that *all* wireless providers have equal access to the necessary billing and collection services from the LECs. Such regulation is consistent with the Commission's practices and policy goals and will eliminate the possibility of unfair competition in the wireless industry.

The Commission also should implement a nationwide notification policy that ensures that callers are aware they will be charged for a completed CPP call. A uniform notification policy will prevent customer confusion and eliminate the possibility of conflicting state requirements that would make it impossible for wireless providers to offer CPP on a nationwide. Because CMRS providers cannot inform callers of the exact charges associated with a CPP call, the Commission should *not* require that CMRS providers notify callers of the charges associated with each call.

While limited rules are necessary for the implementation of CPP, the Commission should focus the NPRM on the minimum regulatory requirements necessary for nationwide implementation of CPP. Technical implementation questions and issues such as pay telephone compensation and signaling should be addressed by the efforts of industry participants, who are in the best position to reach workable and technically feasible solutions.

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REPLY COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

Vanguard Cellular Systems, Inc. ("Vanguard"), by its attorneys, hereby submits its reply comments on the Petition for Expedited Consideration filed by the Cellular Telecommunications Industry Association ("CTIA") in the above-referenced proceeding.^{1/} As evidenced by the comments filed in response to the CTIA Petition, there is a consensus in the industry that the calling party pays ("CPP") service option will revolutionize the development of commercial mobile radio service ("CMRS") as a true competitor to landline communications. Consequently, the Commission should work to adopt limited rules that will permit CMRS providers to make CPP available to their consumers on a national basis.

^{1/} In the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Services, *CTIA Petition for Expedited Consideration*, WT Docket No. 97-207, DA 98-468 (filed February 23, 1998) ("CTIA Petition"). *See also* Commission Seeks Comment on "Petition for Expedited Consideration of the Cellular Telecommunications Industry Association" in the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Service, *Public Notice*, WT Docket No. 97-207, DA 98-468 (rel. March. 9. 1998).

I. INTRODUCTION

On October 23, 1997, the Commission initiated this proceeding with a Notice of Inquiry ("NOI") seeking information from the industry regarding the implementation of CPP.^{2/} Several parties, including Vanguard, filed comments and reply comments in response to the Commission's inquiry. The comments showed that CPP will benefit consumers and increase competition in the local telecommunications marketplace. On the basis of those comments, CTIA filed its petition and urged the Commission to issue promptly a notice of proposed rulemaking ("NPRM") to adopt CPP service rules.^{3/} Seventeen parties filed comments on the CTIA Petition. Vanguard offers these reply comments in further support of the CTIA Petition and Commission's initiative to pursue CPP as a CMRS service option.

II. CPP IS A NEW SERVICE THAT IS WITHIN THE COMMISSION'S JURISDICTION

A. CPP Is a Distinct Wireless Service

One question that has been raised by a few parties in this proceeding is whether CPP is a distinct service. Like toll-free service, collect calling, and a host of other services that alter the way in which charges are assessed, CPP does constitute a distinct wireless services.

The Commission and other regulators long have recognized that a service can be defined, in part, by the way in which charges are levied. Rather than a mere billing issue, the question of who is responsible for the charges associated with a particular call is an important indicator of

^{2/} In the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Services, *Notice of Inquiry*, WT Docket No. 97-207, FCC 97-341 (rel. October 23, 1997).

^{3/} CTIA Petition at 9.

the type of service employed. Toll free service or "800" calling, for example, is distinguishable from basic message telecommunications service ("MTS") because it replaces the consumer with the service provider as the party responsible for paying for the calls. The same is true for collect calling, which makes the person receiving the call, as opposed to the calling party, responsible for the charges. Distinguishing among telecommunications services, therefore, by the party responsible for the charges is not unusual.

The way in which charges are levied also affects how a service is used and therefore is an integral aspect of the service. Landline service, for instance, includes free inbound calling. This characteristic of landline service encourages consumers to distribute their landline telephone numbers widely and generally to receive calls. Similarly, "800" service encourages calls that otherwise would have been toll calls for the caller, at rates that are cheaper for the receiving party than collect calls. CPP, which encourages wireless customers to distribute their numbers and receive more inbound calls, plainly meets such a standard. Thus, any suggestion that CPP might not be a distinct service should be disregarded.

While certain parties cite the Commission's *Arizona* decision for the proposition that CPP is merely a billing arrangement, such reliance on *Arizona* is misplaced.^{4/} First, the language in *Arizona* is dictum. Because the issue of CPP was irrelevant to the decision in that case, *i.e.*,

^{4/} In the Matter of Petition of Arizona Corporation Commission To Extend State Authority Over Rate and Entry Regulation All Commercial Mobile Radio Services And In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, *Report and Order and Order on Reconsideration*, 10 FCC Rcd 7824 (1995) ("*Arizona*").

whether continued state regulation of CMRS rates was warranted, the discussion of CPP was purely superfluous and should not be treated as binding Commission precedent.^{5/} Second, there was no analysis of how CPP operated or whether CPP had the characteristics of a distinct service. Indeed, the FCC's focus in *Arizona* was not on CPP at all. Third, the characterization in *Arizona* is incorrect because the Commission failed to recognize CPP as a commercial mobile radio *service* subject to section 332(c)(3) of the Act.^{6/} Thus, any suggestion that CPP is merely a billing arrangement based on the dictum in *Arizona* is incorrect and misconstrues the nature of the CPP service option.

B. CPP Is Subject to the Commission's Jurisdiction

Pursuant to Section 332, the Commission has been given the power to regulate CMRS generally, with the states given only a limited role.^{7/} This regulatory authority over CMRS was

^{5/} As Justice Douglas once said, the Commission's statement was "casual almost offhand. And it . . . [should] not survive[] reflection." *Cammarano v. United States*, 358 U.S. 498, 514 (1959) (concurring opinion).

^{6/} A "billing arrangement" affects only how the customer is billed, not who gets billed. To describe CPP as a mere billing arrangement ignores that CPP fundamentally affects the way in which charges are levied on consumers and how and to what extent CMRS will be used by consumers. Indeed, one indication that CPP is not merely a billing arrangement is that CMRS providers must obtain billing and collection for CPP from other carriers. See *infra* Part III. See also NOI Comments of GTE at 18-19. GTE believes that the Commission's characterization of CPP as a billing arrangement in its *Arizona* decision was incorrect.

^{7/} 47 U.S.C. § 332(c)(3). Even though Section 332 does give the states some jurisdiction over billing, that jurisdiction is subject to the Commission's powers because of the amendment to Section 2(b). Similarly, although Section 332 gives the states limited authority over "other terms and conditions," that phrase does not include rates and pricing elements. Indeed, the list of terms and conditions that fall within a state's lawful regulatory authority included in the House Report for the 1993 Budget Act demonstrates that state-imposed CPP

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established in the 1993 Budget Act, which revised Section 332 and amended Section 2(b) of the Communications Act to provide: “[e]xcept as provided in . . . [S]ection 332, . . . nothing in this chapter shall be construed to apply or to give the Commission jurisdiction over all charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier”^{8/} Congress’ express purpose in amending section 2(b) and 332 was to create a uniform federal framework for the regulation of CMRS, thereby eliminating the states’ substantive jurisdiction over formerly intrastate wireless telecommunications services.^{9/} By amending section 2(b) to except out section 332 from the states’ jurisdictional authority, Congress intended to create a uniform *federal* regulatory framework for CMRS and, equally important, removed the traditional impediment to federal preemption that limits the Commission’s jurisdiction over landline services. This provides the Commission with broad regulatory authority to regulate CMRS services.

This conclusion recently was confirmed by the Eighth Circuit Court of Appeals. While the Eighth Circuit’s review of the *Local Competition Order* vacated key portions of the Commission’s broader interconnection initiatives, the court specifically recognized the special

^{7/} (...continued)

regulations on interstate wireless carriers do not fit within the scope of a state’s lawful regulatory authority. See NOI Reply Comments of Vanguard at 14 (citing H.R. Rep. No. 111, 103rd Cong. 1st Sess. at 261(customer billing information and practices and billing disputes and other consumer protection matters; facilities siting issues; transfers of control; the bundling of services and equipment; and the requirement that carriers make capacity available on a wholesale basis)).

^{8/} 47 U.S.C. § 152(b) (emphasis added to 1993 Budget Act language addition).

^{9/} See Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI § 6002(b), 107 Stat. 312 (1993).

nature of the Commission's jurisdiction over CMRS and confirmed the Commission's determinations in the *Local Competition Order* that reflected the unique jurisdictional nature of CMRS. Specifically, the court concluded that:

[b]ecause Congress expressly amended section 2(b) to preclude state regulation of entry of and rates charged by . . . CMRS providers, *see* 47 U.S.C. §§ 152(b) (exempting the provisions of section 332), 332(c)(3)(A), and because section 332(c)(1)(B) gives the FCC authority to order LECs to interconnect with CMRS carriers, we believe that the Commission has the authority to issue the rules of special concern to the CMRS providers.^{10/}

Thus, by affirming the Commission's broad regulatory authority over CMRS pursuant to Section 332, the Eighth Circuit confirmed Commission jurisdiction over CMRS services, including the CPP service option.

C. The Commission Can Adopt Billing and Collection Rules and Define Billing and Collection as an Unbundled Network Element

In addition to the Commission's jurisdiction over CMRS pursuant to Section 332, the Commission retains its power over billing and collection, as described in the *Billing Detariffing Order*.^{11/} As several parties have demonstrated, the Commission also has power under Section 251(c) to treat billing and collection as an unbundled element, in much the same way it has determined that OSS should be treated as an unbundled element.^{12/} Indeed, pursuant to Section

^{10/} *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 800 n. 21 (8th Cir. 1997), *cert. granted on other grounds*, *FCC v. Iowa Utils. Bd.*, 66 U.S.L.W. 3490 (U.S. 1998) ("*Iowa Utils Bd.*").

^{11/} *See Detariffing of Billing and Collection Service*, 102 F.C.C. 2d 1150, 1169 (1986) ("*Billing Detariffing Order*").

^{12/} *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499, 15766; *Iowa Utils. Bd.*, 120 F.3d at 809

(continued...)

251, the Commission has the authority to define which network elements must be made available by the LECs.^{13/} In making such a determination, the Commission is required to consider whether access to network elements is necessary and whether the failure to provide access to such network elements would impair the ability of the telecommunications carrier to provide its services.^{14/} As shown below, and by several parties to this proceeding, many CMRS providers require LEC billing and collection for the provision of CPP services, and without it will not be able to offer CPP to customers.^{15/} Consequently, the Commission can and should act to implement a national billing and collection regime to ensure the wireless providers are not denied the ability offer CPP services. Such action is consistent with the 1996 Act and Commission precedent.

^{12/} (...continued)

(the "explicit reference to 'databases, signaling systems, and information sufficient for billing and collection' [in the statutory definition of 'network element'] clearly indicates that operational support systems qualify as network elements under the Act").

^{13/} This authority has been confirmed by the Eighth Circuit. *See Iowa Utils. Bd.*, 120 F.3d at 800 n. 21.

^{14/} 47 U.S.C. § 251(d).

^{15/} Even under the standards proposed by the ILEC petitioners in the Supreme Court appeal of *Iowa Utils. Bd.*, access to billing and collection would be "necessary" because it is not available from *any* other source.

III. THE NPRM SHOULD PROPOSE UNIFORM BILLING AND COLLECTION RULES

A. LEC Billing and Collection Is Critical to CPP

The comments show that LEC billing and collection is essential to successful implementation of CPP.^{16/} Indeed, as AirTouch explains, “local exchange carriers must bill and collect from their own customers who place calls to CMRS subscribers, in order for CPP to be economically viable.”^{17/} Similarly, according to Omnipoint, “to facilitate the development and growth of CPP, wireless providers require access to the necessary billing and collections services provided by the LECs . . . [and] CMRS providers will not emerge as viable competitors to wireline providers while incumbent carriers retain monopolistic control over the key elements necessary to make CPP a reality.”^{18/} Without a LEC billing mechanism in place, CMRS providers will be unable to be compensated for the CPP service they provide and, therefore, will be unable to offer the CPP service option.^{19/} Thus, billing and collection is central to successful implementation of CPP.

The alternatives suggested in place of LEC billing, including wireless billing, are practically and economically infeasible for wireless providers. Indeed, CMRS billing for CPP is

^{16/} See AirTouch Comments on CTIA Petition at 2; Omnipoint Comments on CTIA Petition at 3-4; Rural Telecommunications Group (“RTG”) Comments on CTIA Petition at 9-14.

^{17/} AirTouch Comments on CTIA Petition at 2.

^{18/} Omnipoint Comments on CTIA Petition at 3-4. See also RTG Comments on CTIA Petition at 9 (noting that “without the adequate ability to bill and collect from calling parties who place calls to CPP subscribers, CPP service providers will be unable to offer CPP service.”).

^{19/} See Vanguard Comments on CTIA Petition at 9.

“untenable as an economic matter” for all but a handful of providers.^{20/} and individual negotiations with LECs would be unduly burdensome and economically infeasible.^{21/} As Omnipoint demonstrated, several LECs already have refused to offer billing and collection services necessary for Omnipoint to offer a CPP service option.^{22/} Such refusal by the LECs will make it impossible for wireless providers to implement CPP on a nationwide basis, and demonstrates the need for limited Commission regulation of CPP.

Commission rules are a necessary response to this market failure. Despite suggestions that market forces alone should be left to govern CPP,^{23/} market forces will work only under the appropriate market conditions, *i.e.*, the appropriate regulatory environment. Thus, while the Commission’s policies under the Telecommunications Act of 1996 have focused on deregulatory measures, market forces will not allow the development of CPP if inequities exist between the LECs and CMRS providers. Indeed, the 1996 Act is premised on the notion that a certain amount of government intervention, in the form of negotiation and arbitration requirements, is

^{20/} AirTouch Comments on CTIA Petition at 2.

^{21/} See RTG Comments on CTIA Petition. RTG agrees that requiring CMRS providers to negotiate billing and collection agreements with every individual LEC would be tremendously burdensome. See also Declaration of Sandy Kiernan, Carrier Relations Manager at Vanguard Cellular Systems, Inc. (attached to Vanguard Comments on CTIA Petition) at 1-2.

^{22/} Omnipoint Comments on CTIA Petition at 4. SBC, CBT, Alltel, and SNET have refused to offer billing and collection services to Omnipoint’s billing partner that would allow Omnipoint to offer its wireless customers a CPP service.

^{23/} See, e.g., BellSouth Comments on CTIA Petition at 4; USTA Comments on CTIA Petition at 1.

necessary to overcome ILEC disincentives to cooperate with potential competitors.^{24/} The “fact that there is unequal bargaining power between the two sides flies in the face of suggesting that market forces should determine ‘whether and when CPP will be implemented.’”^{25/} Similarly, “[w]hile RTG generally supports deregulation where competition has taken a foothold, deregulation would not serve the public interest in this instance.”^{26/} Thus, “[i]n the case of CPP service, which has the potential to increase the demand for wireless telecommunications services, a uniform, national billing and collections policy is warranted.”^{27/}

B. The Likelihood of Unfair Competitive Advantages that Will Result Within the CMRS Industry Demonstrates the Need for Commission Intervention

In addition to the inequities between LECs and CMRS providers that will result absent billing and collection rules, a failure to adopt such rules will create unfair advantages for a handful of the largest CMRS providers in offering CPP. In today’s telecommunications marketplace, a few wireless providers have access to billing and collection arrangements established by their parent corporations, and these companies will have significant advantages over independent CMRS providers seeking to offer CPP.

^{24/} See, e.g., 47 U.S.C. § 251(b)(5) (reciprocal compensation rights); 47 U.S.C. § 251(c)(1) (duty to negotiate); 47 U.S.C. § 252 (b) (arbitration procedures).

^{25/} Omnipoint Comments on CTIA Petition at 4.

^{26/} RTG Comments on CTIA Petition at 12.

^{27/} *Id.* at 13. See also AirTouch Comments at 2 (noting that “some regulatory involvement may be necessary to the extent market forces are insufficient to prevent a CPP option from being introduced.”).

AT&T Wireless, for example, can bill for CPP calls in its Minnesota trial through AT&T Corp.'s existing billing arrangements with customers and LECs.^{28/} Similarly, RBOC-affiliated wireless providers can obtain billing and collection services from their parent corporations.^{29/} Such arrangements are not available to smaller CMRS providers that are not affiliated with RBOCs or other large parent corporations that already have access to ubiquitous billing. Thus, without a nationwide billing and collection regime in place, RBOC-affiliated wireless providers will have a unfair competitive advantage over non-RBOC affiliated wireless providers. Moreover, it is not just a matter of paying more for the same service: As Vanguard and others have shown, nationwide billing and collection is not available at all to independent CMRS providers.^{30/} This is an unacceptable result and contrary to the Commission's pro-competitive goals.

^{28/} See AT&T Wireless Comments on CTIA Petition at 3-4. For that trial, AT&T obtained 500 numbers from AT&T Corp. that it will use as mobile identification numbers for wireless customers who subscribe to CPP. AT&T Wireless plans to use the billing arrangements that govern the use of 500 numbers in place between the LECs and AT&T Corp., thus limiting AT&T Wireless' concern about its relationship with LECs. Indeed, according to a June 8, 1998 article in the *Mobile Phone News*, AT&T is "leveraging . . . [its] nationwide network' to have a comprehensive billing arrangement." See *AT&T May Be Climbing Over CPP Obstacles*, MOBILE PHONE NEWS, June 8, 1998, at 1 (quoting Ann Guilford, Product Manager for AT&T Wireless).

^{29/} In addition to the RBOCs' cellular affiliates, PrimeCo Personal Communications, which offers digital wireless service in over 20 major cities, is owned by an alliance of Bell Atlantic, U S WEST and AirTouch. While this arrangement may not provide national coverage, the areas covered by the RBOC parent corporations will likely cover most, if not all, of the wireless affiliate's service area.

^{30/} See Vanguard Comments on CTIA Petition at 9-13; Omnipoint Comments on CTIA Petition at 4; AirTouch Comments on CTIA Petition at 2-3.

The Commission must act to ensure that *all* wireless providers have access to the necessary billing and collection services from the LECs. Such regulation is consistent with the Commission's practices and policy goals and will eliminate the possibility of unfair competition in the wireless industry. Indeed, as one party stated, "despite the trend toward deregulation, the Commission still embraces regulation in limited circumstances where it has the potential to promote competition by permitting new entrants to gain stability in the market before squaring off head-to-head with incumbent providers."^{31/} CPP presents such a circumstance.

IV. THE COMMISSION SHOULD ADOPT NATIONAL CONSUMER PROTECTION RULES

A. A Uniform Notification Policy Is Desirable

The Commission should implement a nationwide notification policy that ensures that callers are aware they will be charged for a completed CPP call. As is plain from the comments, a uniform notification is necessary to prevent undue customer confusion. As Omnipoint explained, "[c]allers to CPP subscribers must be presented with a consistent treatment whether they are calling an in-state CPP subscriber, a CPP subscriber who obtains service from just across the border, or a CPP subscriber obtaining service from a wireless carrier located one thousand miles away."^{32/}

^{31/} RTG Comments on CTIA Petition at 13.

^{32/} Omnipoint Comments on CTIA Petition at 8. *See also* AirTouch Comments on CTIA Petition at 3 (concluding that "such uniformity would assist customers in becoming familiar with CPP arrangements, and reduce costs for carriers."); CTIA Comments on CTIA Petition at 3 (a "national policy will, among other things, reduce caller confusion . . ."); Petroleum Communications, Inc. ("PetroCom") Comments on CTIA Petition at 2 (stating that
(continued...)

In addition to eliminating customer confusion, a uniform notification policy will eliminate the possibility of varying and conflicting state requirements. Inconsistent state notification requirements would make it impossible for wireless providers to offer CPP on a nationwide scale.^{33/} Indeed, “[i]f individual states are permitted to adopt different notification requirements, wireless providers will have an insurmountable obstacle of compliance.”^{34/} To avoid this barrier to CPP, the Commission should work with the states to develop an appropriate notification mechanism that will provide consumers with information necessary to decide whether or not to complete the call.

32/ (...continued)

“[e]ncountering the same notification on every call will promote consumer’s understanding and acceptance of CPP.”); Rural Cellular Association (“RCA”) Comments on CTIA Petition at 2 (finding that a “national approach will ensure customer awareness that charges may be incurred and avoid confusion within the mobile user community.”).

33/ This problem is especially acute for wireless providers that employ “follow-me” roaming. It is conceivable that the wireless providers offering such service could be subject to fifty different notification requirements or more. Further, state rules that required disclosure of rates for CPP would violate the Section 332 prohibition against state rate regulation of CMRS. See Implementation of Sections 3(n) and 332 the Communications Act Regulatory Treatment of Mobile Services, *Second Report and Order*, 9 FCC Rcd 1411, 1480 (1994) (permitting states to require CMRS providers to file *only* terms and conditions tariffs, which do not include rate provisions); see also Petition of New York State Public Service Commission To Extend Rate Regulation, *Report and Order*, 10 FCC Rcd 8187 (1995) (prohibiting the New York State Public Service Commission to continue rate regulation over CMRS providers, including “range of rates” tariffs filed by wireless providers); Petition of the People of the State of California and the Public Utilities Commission of the State of California To Retain Regulatory Authority over Intrastate Cellular Service Rates, *Report and Order*, 10 FCC Rcd 7486 (1995) (rejecting the California Public Utilities Commission’s request to continue to exercise its regulatory authority over cellular service, including established tariff requirements).

34/ Omnipoint Comments on CTIA Petition at 8. See also RTG Comments on CTIA Petition at 8.

B. The Notification Should Be Simple and Straightforward

The Commission's notification rules should embody these basic principles:

- (1) Caller notification should be the responsibility of the wireless provider.
- (2) The message should inform callers that they will be charged for the completed CPP call and provide callers with a choice of whether or not to complete the call to a wireless handset.
- (3) Providers should not be required to include specific pricing information in the notification.

While each of these principles is important, the third is key to effective implementation of CPP. As Vanguard has stated, it is *impossible* for CMRS providers to inform callers of the exact charges associated with a CPP call. Because CMRS providers often have different rate plans for different service offerings, because calls will have varying lengths and because callers for whom the dialed number is a toll call will pay both toll and CPP charges, it would be impossible for a provider to determine the cost of each and every call to each and every calling party.

Indeed, as RCA explains, "any requirement to provide notification of specific CPP charges would be costly and administratively burdensome for carriers. To avoid confusion and delay in call completion, national notification standards should be simple and concise"^{35/} The Commission, therefore, should *not* require that CMRS providers inform callers of the costs associated with each call.

^{35/} See RCA Comments on CTIA Petition at 2.

V. THE COMMISSION SHOULD NOT ADOPT RULES IN AREAS WHERE INDUSTRY CAN REACH A COOPERATIVE SOLUTION

While certain Commission-imposed regulations are necessary for the implementation of CPP on a national scale, *e.g.*, billing and collection and consumer notification, the Commission should focus the NPRM on the *minimum* regulatory requirements necessary for nationwide implementation of CPP. Although billing and collection and notification are not the only other issues that may affect CPP, most of the remaining issues, especially the technical implementation questions, can best be solved by cooperative industry efforts.^{36/} Issues such as pay telephone compensation and signaling, for instance, are more appropriately addressed by the efforts of industry participants, who are in the best position to reach a workable and technically feasible solution.^{37/} In fact, the Commission's processes are ill-suited to address these peripheral issues.

At the same time, adopting the path of minimum necessary regulation is consistent with important regulatory principles, as well as Congress' intent in adopting the 1996 Act. As the implementor of the 1996 Act, and consistent with the principles of that statute, the Commission's

^{36/} See Motorola Comments on CTIA Petition at 3 (noting that industry segments should work together to resolve the technical issues associated with the provision of CPP).

^{37/} The pay telephone issues also could be addressed in the context of the Commission's existing pay telephone compensation proceeding. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128. Concern raised by paging carriers regarding the costs of calls, *i.e.*, the costs per call to a paging unit may need to be different than the price for a call to a cellular phone, also should be addressed by the industry or in the marketplace. Indeed, BellSouth is conducting a calling party pays market trial for paging service in Atlanta, Georgia, which may provide useful insight into the paging issues associated with CPP. Moreover, no party has proposed any rule that would prevent paging companies from charging different rates than other CMRS providers.

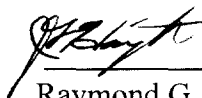
goal should be to facilitate the operation of the marketplace. To do so, the Commission must adopt the minimum regulation necessary to foster consumer choice and the wide availability of competitive services.

VI. CONCLUSION

For all of these reasons the Commission should issue a notice of proposed rulemaking consistent with these comments.

Respectfully submitted,

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June 8, 1998

CERTIFICATE OF SERVICE

I, Jeanette M. Corley, a secretary at Dow, Lohnes & Albertson, PLLC, do hereby certify that on this 8th day of June, 1998, I caused copies of the foregoing "Reply Comments of Vanguard Cellular Systems, Inc." to be served upon the parties listed below via first class mail and hand delivery:

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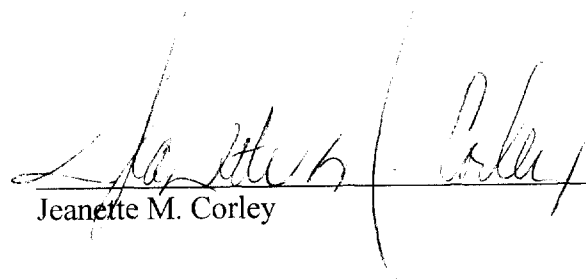
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